

United States Senate

WASHINGTON, DC 20510

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October 29, 2018

The Honorable Ajit V. Pai
Chairman
455 12th Street, Southwest
Washington, DC, 20544

Dear Chairman Pai:

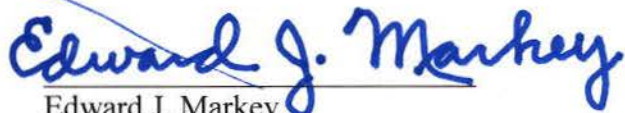
We write regarding the Federal Communications Commission's (FCC) recent vote to proceed with the item, "Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as Amended by the Cable Television Consumer Protection and Competition Act of 1992" (MB Docket No. 05-311). This proposal would potentially alter, at cable operators' discretion, the terms of the governing agreements between Local Franchising Authorities (LFA) and cable operators. In its current form, the proposal puts at risk critical funding for public, educational, or governmental (PEG) stations as well as broadband connections to schools and other public buildings. Our constituents watch PEG channels to monitor local government proceedings, hear the latest news from nearby college campuses, and consume other locally produced programming including emergency alerts and directives. Your proposal may jeopardize these important functions. We encourage you and your colleagues on the Commission to ensure that any final decision will not threaten the sustainability of PEG stations.

Under the Communications Act, towns and cities across the country are permitted to require as part of cable franchise agreements that cable operators meet demonstrated community needs by setting aside channels for PEG stations. Yet the FCC's current proposal would allow cable operators to assign a value to these channels, and then subtract that amount, and the value the operator places on any other in-kind contributions, such as free service to schools, from the franchise fees the cable operator owes. If this order is eventually adopted in its current form, cities and towns across the country may soon have to decide between supporting local PEG channels and supporting other critical institutions serving the public good. This is a lose-lose choice for LFAs and the residents they serve. We fear this proposal will result in a dire drop in resources for PEG channels throughout the nation.

In an era of media globalization and consolidation, PEG access stations continue to give viewers critical information about their communities and offer an important platform for local voices. They catalyze civic engagement and they provide invaluable educational services. As the Commission proceeds on this issue, we urge you to consider the potential impact on PEG stations.

Thank you for your attention to this issue.

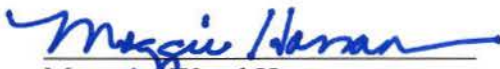
Sincerely,



Edward J. Markey
United States Senator



Tammy Baldwin
United States Senator



Margaret Wood Hassan
United States Senator



Benjamin L. Cardin
United States Senator



Jeffrey A. Merkley
United States Senator



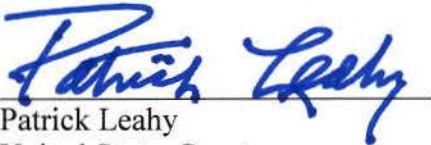
Bernard Sanders
United States Senators



Gary C. Peters
United States Senator



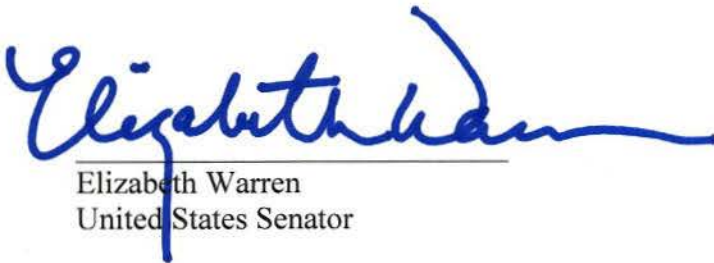
Ron Wyden
United States Senator



Patrick Leahy
United States Senator



Richard Blumenthal
United States Senator



Elizabeth Warren
United States Senator

CC: The Honorable Michael O'Rielly, Commissioner
The Honorable Brendan Carr, Commissioner
The Honorable Jessica Rosenworcel, Commissioner



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

November 27, 2018

The Honorable Benjamin L. Cardin
United States Senate
509 Hart Senate Office Building
Washington, D.C. 20510

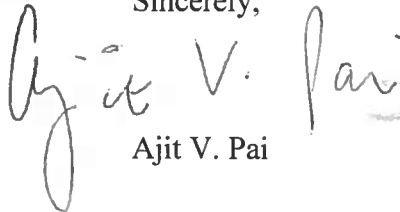
Dear Senator Cardin:

Thank you for your letter regarding the impact that the statutory cap on franchise fees has on funding for public, educational, or governmental (PEG) channels. As you know, the Communications Act limits franchise fees to 5% of cable revenues and defines “franchise fee” to include “any tax, fee, or assessment of any kind imposed by a franchising authority or other governmental entity on a cable operator or cable subscriber, or both, solely because of their status as such.” 47 U.S.C. § 542(g)(1). The U.S. Court of Appeals for the Sixth Circuit has held that the terms “tax” and “assessment” can include nonmonetary exactions. *Montgomery County, Md. et al. v. FCC*, 863 F.3d 485, 490-91 (6th Cir. 2017).

In response to a remand from the Sixth Circuit, the Commission unanimously issued its Second Further Notice of Proposed Rulemaking to consider the scope of the congressionally-mandated statutory limit on franchise fees. Among other things, the Commission observed that Congress broadly defined franchise fees; indeed, with respect to PEG channels, it only excluded support payments with respect to franchises granted prior to October 30, 1984 as well as capital costs required by franchises granted after that date. 47 U.S.C. § 542(g)(2)(B) & (C). The record of this proceeding remains open, and I encourage all interested parties and stakeholders—including local franchising authorities—to provide us with relevant evidence regarding these issues so that the Commission can make the appropriate judgment about the path forward, consistent with federal law. Your views will be entered into the record of the proceeding and considered as part of the Commission’s review.

Please let me know if I can be of any further assistance.

Sincerely,



Ajit V. Pai



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

November 27, 2018

The Honorable Bernard Sanders
United States Senate
332 Dirksen Senate Office Building
Washington, D.C. 20510

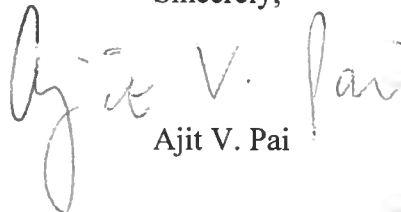
Dear Senator Sanders:

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Ajit V. Pai



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

November 27, 2018

The Honorable Edward J. Markey
United States Senate
255 Dirksen Senate Office Building
Washington, D.C. 20510

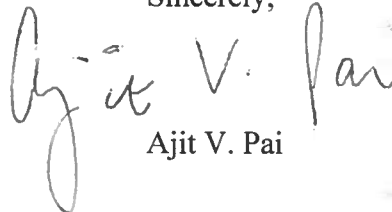
Dear Senator Markey:

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Ajit V. Pai



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

November 27, 2018

The Honorable Elizabeth Warren
United States Senate
317 Hart Senate Office Building
Washington, D.C. 20510

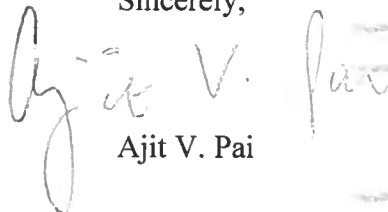
Dear Senator Warren:

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Ajit V. Pai



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

November 27, 2018

The Honorable Gary Peters
United States Senate
724 Hart Senate Office Building
Washington, D.C. 20510

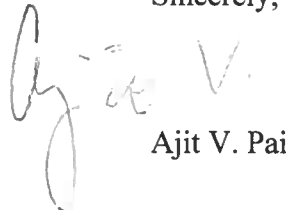
Dear Senator Peters:

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Ajit V. Pai



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
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November 27, 2018

The Honorable Jeff Merkley
United States Senate
313 Hart Senate Office Building
Washington, D.C. 20510

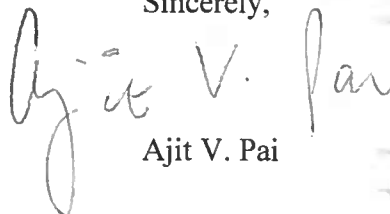
Dear Senator Merkley:

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Ajit V. Pai



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

November 27, 2018

The Honorable Maggie Hassan
United States Senate
330 Hart Senate Office Building
Washington, D.C. 20510

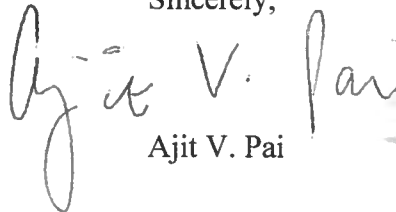
Dear Senator Hassan:

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Ajit V. Pai



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
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November 27, 2018

The Honorable Patrick J. Leahy
United States Senate
437 Russell Senate Office Building
Washington, D.C. 20510

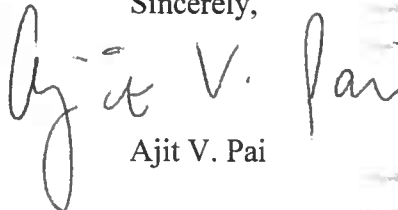
Dear Senator Leahy:

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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

November 27, 2018

The Honorable Richard Blumenthal
United States Senate
706 Hart Senate Office Building
Washington, D.C. 20510

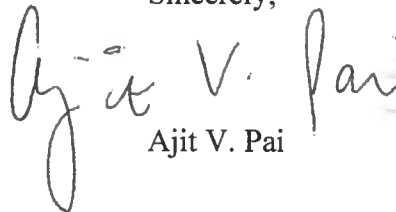
Dear Senator Blumenthal:

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WASHINGTON

OFFICE OF
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November 27, 2018

The Honorable Elizabeth Warren
United States Senate
317 Hart Senate Office Building
Washington, D.C. 20510

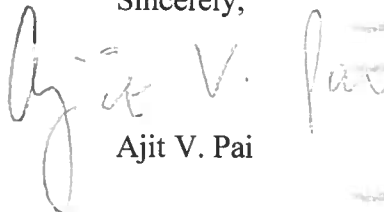
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Ajit V. Pai



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

November 27, 2018

The Honorable Tammy Baldwin
United States Senate
709 Hart Senate Office Building
Washington, D.C. 20510

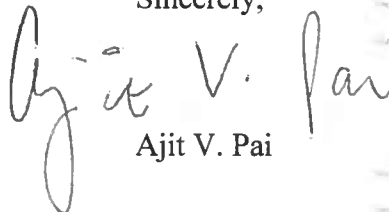
Dear Senator Baldwin:

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